

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2554

Introduced by Assembly Member Brownley

February 19, 2010

An act to amend Sections 2 and 16 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915), relating to the Los Angeles County Flood Control District.

LEGISLATIVE COUNSEL'S DIGEST

AB 2554, as amended, Brownley. Los Angeles County Flood Control District. *District: fees and charges.*

Existing law, the Los Angeles County Flood Control Act, establishes the Los Angeles County Flood Control District and authorizes the district to control and conserve the flood, storm, and other wastewater of the district. The act declares the district to be a body corporate and politic, and to have various powers, including the power to cause taxes to be levied and collected for the purpose of paying any obligation of the district.

~~This bill would make various technical, nonsubstantive changes to these provisions:~~

This bill would authorize the district to impose a fee or charge in the unincorporated areas of the county, in compliance with Article XIII D of the California Constitution, to pay the costs and expenses of the district, and to carry out the objects or purposes of the act. The bill would require that any fees imposed be levied and collected together with taxes for county purposes, and the revenues paid into the county treasury to the credit of the district.

The act authorizes the board of the district, subject to certain limitations, to do all acts or things necessary or useful for the promotion of the work or the control of the flood and storm waters of the district, to conserve those waters for beneficial and useful purposes, and to protect from damage from storm or flood waters, the harbors, waterways, public highways, and property of the district. One limitation upon the authority of the board of the district is that it is not authorized to raise money for the district by any method or system other than by issuing bonds, or the levying of a tax upon the assessed value of all the real property of the district, except from the sale and lease of its property.

This bill would instead provide that the board of the district is not authorized to raise money for the district by any method or system other than by issuing bonds, the levying of a tax, or the imposition of a fee or charge in compliance with Article XIII D of the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2 of the Los Angeles County Flood
2 Control Act (Chapter 755 of the Statutes of 1915), as amended by
3 Section 33 of Chapter 1276 of the Statutes of 1975, is amended to
4 read:

5 Sec. 2. The objects and purposes of this act are to provide for
6 the control and conservation of the flood, storm and other waste
7 waters of said district, and to conserve these waters for beneficial
8 and useful purposes by spreading, storing, retaining or causing to
9 percolate into the soil within the district, or to save or conserve in
10 any manner, all or any of these waters, and to protect from damage
11 from flood or storm waters, the harbors, waterways, public
12 highways and property in the district.

13 The Los Angeles County Flood Control District is hereby
14 declared to be a body corporate and politic, and has all the
15 following powers:

16 1. To have perpetual succession.

17 2. To sue and be sued in the name of the district in all actions
18 and proceedings in all courts and tribunals of competent
19 jurisdiction.

1 3. To adopt a seal and alter it at pleasure.

2 4. To take by grant, purchase, gift, devise or lease, hold, use,
3 enjoy, and to lease or dispose of real or personal property of every
4 kind within or without the district necessary to the full exercise of
5 its power.

6 5. To acquire or contract to acquire lands, rights-of-way,
7 easements, privileges and property of every kind, and construct,
8 maintain and operate any and all works or improvements within
9 or without the district necessary or proper to carry out any of the
10 objects or purposes of this act, and to complete, extend, add to,
11 repair or otherwise improve any works or improvements acquired
12 by it as herein authorized. Construction or improvement of existing
13 facilities may involve landscaping and other aesthetic treatment
14 in order that the facility will be compatible with existing or planned
15 development in the area of improvement.

16 6. To exercise the right of eminent domain, either within or
17 without the district, to take any property necessary to carry out
18 any of the objects or purposes of this act.

19 7. To incur indebtedness, and to issue bonds in the manner
20 herein provided.

21 7a. To borrow money from the United States of America, any
22 agency or department thereof, or from any nonprofit corporation,
23 organized under the laws of this state, to which the Reconstruction
24 Finance Corporation, a corporation organized and existing under
25 and by virtue of an act of Congress, entitled "Reconstruction
26 Finance Corporation Act," or other agency, or department, of the
27 United States government, has authorized, or shall hereafter
28 authorize, a loan to enable nonprofit corporation to lend money to
29 the Los Angeles County Flood Control District, for any flood
30 control work authorized under this act, and to repay the same, in
31 annual installments, over a period of not to exceed twenty (20)
32 years, with interest at a rate of not to exceed four and one-fourth
33 per centum (4 ¼%) per annum, payable semiannually, and, without
34 the necessity of an election when authorized by resolution of the
35 board of supervisors, as evidences of that indebtedness, the district
36 is hereby authorized to execute and deliver a note, or a series of
37 notes, or bonds, or other evidences of indebtedness, signed by the
38 chairperson of the board of supervisors of the district, which notes,
39 bonds, or other evidences of indebtedness, shall be negotiable
40 instruments if so declared in the resolution of the board of

1 supervisors providing for their issuance, and notes, bonds, or other
2 evidences of indebtedness, may have interest coupons attached to
3 evidence interest payments, signed by the facsimile signature of
4 the chairperson of the board. All applications for these loans shall
5 specify the particular flood control work or projects for which the
6 funds will be expended, and when received, the money shall be
7 deposited in a special fund, and shall be expended for those
8 purposes only which are described and referred to in the
9 applications. If a surplus remains after the completion of the work,
10 the surplus shall be applied to the payment of the note, notes,
11 bonds, or other evidences of indebtedness, executed as aforesaid,
12 for the loan including interest coupons. The board of supervisors
13 shall annually levy a tax upon the taxable real property of the
14 district, clearly sufficient to pay the interest and installments of
15 principal, as the same shall become due and payable, under any
16 loan made pursuant to the authority of this section, and to create
17 and maintain a reserve fund to assure the prompt payment thereof,
18 as may be provided by resolution of the board of supervisors.
19 However, the amount of taxes levied in any year, pursuant to this
20 subsection, shall, pro tanto, reduce the authority of the board of
21 supervisors, during any year, to levy taxes under Section 14 of this
22 act, but this proviso shall not be a limitation upon the power and
23 duty to levy and collect taxes under this subsection.
24 Notwithstanding any other provisions of law, interest earned on
25 funds representing the proceeds of bonds of the district shall be
26 deposited and retained in the reserve fund of the district to meet
27 the principal and interest falling due on these bonds.

28 Notwithstanding anything in this subsection to the contrary, the
29 total amount the district may borrow under the authority of any or
30 all of the provisions of this subsection is limited to and shall not
31 exceed in the aggregate the sum of four million five hundred
32 thousand dollars (\$4,500,000).

33 7b. The power granted in the next preceding subsection is hereby
34 extended to authorize the issuance and sale of bonds or other
35 evidences of indebtedness of the district to the County of Los
36 Angeles and the purchase thereof by the county in accordance with
37 “An act authorizing the investment and reinvestment and
38 disposition of any surplus moneys in the treasury of any county,
39 city and county, incorporated city or town or municipal utility
40 district or flood control district,” approved April 23, 1913, as

1 amended; all subject to the provisions and limitations of the next
2 preceding subsection relative to the disposition and use of funds,
3 interest rate, period of repayment, tax rate and mode of issuance.
4 The total amount of bonds or other evidence of indebtedness, in
5 the aggregate, which the district may issue and sell under the
6 authority of subsection 7a and of this subsection is limited to and
7 shall not exceed four million five hundred thousand dollars
8 (\$4,500,000).

9 8. To cause taxes to be levied and collected for the purpose of
10 paying any obligation of the district in the manner provided in this
11 section.

12 *8a. To impose a fee or charge, in the unincorporated areas of*
13 *the county, in compliance with Article XIII D of the California*
14 *Constitution, to pay the costs and expenses of the district, and to*
15 *carry out the objects or purposes of this act. Any fee that is imposed*
16 *shall be levied and collected together with, and not separately*
17 *from, taxes for county purposes, and the revenues derived from*
18 *the fees shall be paid into the county treasury to the credit of the*
19 *district, and the board of supervisors may expend these funds to*
20 *pay for costs described in this subsection.*

21 9. To make contracts, and to employ for temporary services
22 only, expert appraisers, consultants and technical advisers, and to
23 do all acts necessary for the full exercise of all powers vested in
24 the district, or any of the officers thereof, by this act.

25 10. To grant or otherwise convey to counties, cities and counties,
26 cities or towns easements for street and highway purposes, over,
27 along, upon, in, through, across or under any real property owned
28 by the Los Angeles County Flood Control District.

29 11. To remove, carry away and dispose of any rubbish, trash,
30 debris or other inconvenient matter that may be dislodged,
31 transported, conveyed or carried by means of, through, in, or along
32 the works and structures operated or maintained hereunder and
33 deposited upon the property of the district or elsewhere.

34 12. To pay premiums on bonds of contractors required under
35 any contract if the amount payable to the contractor exceeds five
36 million dollars (\$5,000,000); provided, that the specifications in
37 these cases shall specifically so provide and state that the bidder
38 shall not include in his or her bids the cost of furnishing the
39 required bonds.

1 13. To lease, sell or dispose of any property (or any interest
2 therein) whenever in the judgment of the board of supervisors of
3 the property, or any interest therein or part thereof, is no longer
4 required for the purposes of the district, or may be leased for any
5 purpose without interfering with the use of the same for the
6 purposes of the district, and to pay any compensation received
7 therefor into the general fund of the district and use the same for
8 the purposes of this act. However, nothing herein shall authorize
9 the board of supervisors or other governing body of the district or
10 any officer thereof to sell, lease or otherwise dispose of any water,
11 water right, reservoir space or storage capacity or any interest or
12 space therein except to public agencies for recreational purposes
13 when the use is not inconsistent with the use thereof by the district
14 for flood control and water conservation purposes; or except as
15 provided by Section 17 of this act. However, the district may grant
16 and convey to the United States of America, or to any federal
17 agency authorized to accept and pay for the land or interests in
18 land, all lands and interests in land, now owned or hereafter
19 acquired, lying within any channel, dam or reservoir site, improved
20 or constructed, in whole or in part, with federal funds, upon
21 payment to the district of sums equivalent to actual expenditures
22 made by it in acquiring the lands and interests in land so conveyed
23 and deemed reasonable by the Secretary of War and the Chief of
24 Engineers.

25 14. To provide, by agreement with other public agencies or
26 private persons or entities or otherwise, for the recreational use of
27 the lands, facilities, and works of the district which shall not
28 interfere, or be inconsistent, with the primary use and purpose of
29 the lands, facilities, and works by the district.

30 15. In addition to its other powers, the district shall have the
31 power to preserve, enhance, and add recreational features to its
32 properties and upon a finding by the board of supervisors that the
33 acquisition is necessary for those purposes, to acquire, preserve,
34 enhance, and add recreational features to lands or interests in lands
35 contiguous to its properties, for the protection, preservation, and
36 use of the scenic beauty and natural environment for the properties
37 or the lands and to collect admission or use fees for the recreational
38 features where deemed appropriate.

39 The district by or through its board of supervisors, or other board
40 or officers at any time succeeding to the duties or functions of its

1 board of supervisors, is hereby authorized and empowered to
2 warrant and defend the title to all land and interests therein so
3 conveyed to the United States of America or to any agency and
4 its respective assigns; to covenant and agree to indemnify and keep
5 indemnified and to hold and save harmless and exonerated the
6 United States of America or any agency, to which lands or any
7 interest therein are so conveyed by the district, from and against
8 all demands, claims, liabilities, liens, actions, suits, charges, costs,
9 loss, damages, expenses and attorneys' fees of whatsoever kind
10 or nature, resulting from, arising out of or occasioned by any defect
11 or defects whatsoever in the title to any land or interest in land so
12 conveyed by the district; to reimburse and save harmless and
13 exonerated the United States of America or any agency for any
14 and all amounts, paid, and expenses incurred, in the compromise
15 or settlement of any demands, claims, liabilities, liens, actions,
16 suits, charges, costs, loss, damages, expenses and attorneys' fees
17 of whatsoever kind or nature, resulting from, arising out of or
18 occasioned by any claim to or defect or defects whatsoever in the
19 title to any land or interests in land so conveyed by the district; to
20 pay all just compensation, costs and expenses, which may be
21 incurred in any condemnation proceeding deemed necessary by
22 the United States of America or that agency, in order to perfect
23 title to any land or interests in land, including without limitation
24 all attorneys' fees, court costs and fees, costs of abstracts and other
25 evidences of title, and all other costs, expenses or damages incurred
26 or suffered by the United States of America or that agency; and
27 consent is hereby given to the bringing of suit or other legal
28 proceedings against the district by the United States of America
29 or that agency, as the case may be, in the proper district court of
30 the United States, upon any cause of action arising out of any
31 conveyance, contract or covenant made or entered into by the
32 district pursuant to the authority granted in this act, or to enforce
33 any claims, damages, loss or expenses arising out of or resulting
34 from any defect whatsoever in the title to the land or any interest
35 therein or any claims of others in or to the land or interest therein.

36 SEC. 2. Section 16 of the Los Angeles County Flood Control
37 Act (Chapter 755 of the Statutes of 1915), as amended by Section
38 6 of Chapter 1276 of the Statutes of 1975, is amended to read:

39 Sec. 16. (a) The board of supervisors of the district shall have
40 power to make and enforce all needful rules and regulations for

1 the administration and government of the district, and to perform
2 all other acts necessary or proper to accomplish the purposes of
3 this act.

4 (b) The board of supervisors shall have power to do all work
5 and to construct and acquire all improvements necessary or useful
6 for carrying out any of the purposes of this act; and the board of
7 supervisors shall have power to acquire either within or without
8 the boundaries of the district, by purchase, donation or by other
9 lawful means in the name of the district, from private persons,
10 corporations, reclamation districts, swampland districts, levee
11 districts, protection districts, drainage districts, irrigation districts,
12 or other public corporations or agencies or districts, all lands,
13 rights-of-way, easements, property or materials necessary or useful
14 for carrying out any of the purposes of this act; to make contracts
15 to indemnify or compensate any owner of land or other property
16 for any injury or damage necessarily caused by the exercise of the
17 powers conferred by this act, or arising out of the use, taking or
18 damage of any property, rights-of-way or easements, for any of
19 these purposes; to compensate any reclamation district, protection
20 district, drainage district, irrigation district or other district, public
21 corporation or agency or district, for any right-of-way, easement
22 or property taken over or acquired by the Los Angeles County
23 Flood Control District as a part of its work of flood control or
24 conservation or protection provided for in this act, and any
25 reclamation district, protection district, drainage district, irrigation
26 district or other district or public corporation or agency is hereby
27 given power and authority to distribute compensation in any
28 manner that may be now or hereafter allowed by law; to maintain
29 actions to restrain the doing of any act or thing that may be
30 injurious to carrying out any of the purposes of this act by the
31 district, or that may interfere with the successful execution of that
32 work, or for damages for injury thereto; to do any and all things
33 necessary or incident to the powers hereby granted, or to carry out
34 any of the objects and purposes of this act; to require, by
35 appropriate legal proceedings, the owner or owners of any bridge,
36 trestle, wire line, viaduct, embankment or other structure which
37 shall be intersected, traversed or crossed by any channel, ditch,
38 bed of any stream, waterway, conduit or canal, so to construct or
39 alter the same as to offer a minimum of obstruction to the free flow
40 of water through or along any channel, ditch, bed of any stream,

1 waterway, conduit or canal, and whenever necessary in the case
2 of existing works or structures, to require the removal or alteration
3 thereof for that purpose. However, nothing in this act contained
4 shall be deemed to authorize the district in exercising any of its
5 powers to take, damage or destroy any property or to require the
6 removal, relocation, alteration or destruction of any bridge, railroad,
7 wire line, pipeline, facility or other structure unless just
8 compensation therefor be first made, in the manner and to the
9 extent required by the Constitution of the United States and the
10 Constitution of California.

11 The board of supervisors of the district is hereby vested with
12 full power to do all other acts or things necessary or useful for the
13 promotion of the work of the control of the floodwater and
14 stormwater of the district, and to conserve those waters for
15 beneficial and useful purposes, and to protect from damage from
16 floodwater and stormwater, the harbors, waterways, public
17 highways, and property in the district. However, this act does not
18 authorize the district, or any person or persons, to divert the waters
19 of any river, creek, stream, irrigation system, canal or ditch, from
20 its channel, to the detriment of any person or persons having any
21 interest in such river, creek, stream, irrigation system, canal or
22 ditch, or the waters thereof or therein, unless previous
23 compensation be first ascertained and paid therefor, under the laws
24 of this state authorizing the taking of private property for public
25 uses. This act does not affect the plenary power of any incorporated
26 city, city and county, or town, or municipal or county water district,
27 to provide for a water supply of that public corporation, or as
28 affecting the absolute control of any properties of that public
29 corporations necessary for the water supply, and this act does not
30 vest any power of control over the properties in the Los Angeles
31 County Flood Control District, or in any officer thereof, or in any
32 person referred to in this act. This act does not authorize the board
33 of supervisors to raise money for the district by any method or
34 system other than that by the issuing of bonds, ~~or~~ the levying of a
35 tax, *or the imposition of a fee or charge in compliance with Article*
36 *XIII D of the California Constitution*, in the manner in this act
37 provided, except from the sale and lease of its property as provided
38 in this act.

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